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10 Attorneys for Defendant,

11 FRONTIER AIRLINES, INC.

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 ANNE HEITING, an individual,

15 Plaintiff,

16 vs.

17 FRONTIER AIRLINES, INC., a
18 Colorado corporation; DOES 1 through
19 25, inclusive,

20 Defendants.

CASE NO. 2:25-cv-1375

**DEFENDANT'S NOTICE OF
REMOVAL FROM STATE COURT
TO FEDERAL COURT**

Complaint Filed: 1/15/2025

Complaint Served: 1/17/2025

21 Pursuant to 28 U.S.C. §§ 1332(d), 1441, 1146, and 1453, FRONTIER
22 AIRLINES, INC. (hereinafter "Defendant"), by and through its undersigned
23 counsel, hereby provides notice of removal of the above-captioned action from the
24 Superior Court of California, County of Los Angeles, to the United States District
25 for the Central District of California, Los Angeles Division. In support of this
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1 Notice of Removal to Federal Court (“Notice of Removal”), Defendant states as
2 follows:
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4 **I. PROCEDURAL BACKGROUND**

5 1. On January 15, 2025, Plaintiff Anne Heiting (hereinafter “Plaintiff”)
6 commenced an action (the “Complaint”) in the Superior Court of California,
7 County of Los Angeles, captioned *Anne Heiting v. Frontier Airlines, Inc.*, Case No.
8 25STCV01092 (the “State Court Action”). Plaintiff is asserting a cause of action
9 under the “Trap and Trace Law” provision of the California Invasion of Privacy Act
10 (“CIPA”), codified in Cal. Penal Code 630, *et. seq.*
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12 2. CIPA extends civil liability against violators who utilize surveillance
13 technology, providing a private cause of action. Plaintiff maintains that the
14 Defendant used such a trap and trace software by deploying a TikTok software on
15 their website designed to capture phone number, email, routing, addressing and
16 other signaling information of the site’s visitors.
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18 3. Pursuant to 28 U.S.C. § 1446(a), copies of the Complaint and all other
19 process, pleadings, and orders served on Defendant in Los Angeles County Superior
20 Court are collectively attached hereto as Exhibit A.
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22 4. Pursuant to 28 U.S.C. § 1446(d), Frontier will promptly serve a copy
23 of this Notice of Removal on the Plaintiff and will promptly file a Notice of
24 Filing of this Notice of Removal with the Clerk of the Superior Court of
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1 California, County of Los Angeles.

2 II. JURISDICTION

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4 5. This Court has jurisdiction over this action pursuant to 28 U.S.C. §
5 1332 because the parties are diverse, the amount in controversy exceeds
6 \$75,000.00, and no defendant is a citizen of the State of California.
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8 III. MINIMAL DIVERSITY OF CITIZENSHIP

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10 6. Plaintiff's Citizenship. For Diversity purposes, a person is deemed a
11 "citizen" of the state in which they are domiciled. *Newman-Green, Inc. v. Alfonzo-*
12 *Larrain*, 490 U.S. 826, 828 (1989). A domicile is considered to be a person's
13 permanent home, where she resides with the intention to remain or to which she
14 intends to return. *Kanter v. Warner-Lambert Co.*, 704 F.3d 853, 857 (9th Cir. 2001).
15 In her Complaint, Plaintiff maintains that she is a citizen of California, residing in
16 Los Angeles County. (Plaintiff's Complaint, ¶ 7.) Defendant is informed and
17 believes that Plaintiff was a citizen of California at the time of filing and remains a
18 citizen now.
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22 7. Defendant's Citizenship. A corporation is deemed to be a citizen of
23 every State and foreign state by which it has been incorporated and of the State or
24 foreign state where it has its principal place of business. *Harris v. Rand*, 682 F.3d
25 846, 850 (9th Cir. 2012). For diversity purposes, a corporation's principal place of
26 business refers to where a corporation's officers direct, control, and coordinate the
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1 corporation's activities, and is typically where the corporation maintains its
2 headquarters. *Id.* at 851. Defendant is a corporation formed under the laws of
3 Colorado, with its headquarters maintained in Denver, Colorado. Therefore,
4 Defendant is not a citizen of California where the Plaintiff is domiciled.
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6 7 IV. AMOUNT IN CONTROVERSY

8 8. Removal is appropriate under 28 U.S.C. § 1332(a) when it is more
9 likely than not that the amount in controversy exceeds the jurisdictional requirement
10 of \$75,000.00. *See Cohn v. PetSmart, Inc.*, 281 F.3d 837, 839-40 (9th Cir. 2002). In
11 measuring the amount in controversy, a court must assume that the allegations of
12 the complaint are true and assume that a jury will return a verdict for the plaintiff on
13 all claims made in the complaint. *Cain v. Hartford Life & Accident Ins. Co.*, 890
14 F.Supp.2d 1246, 1249 (C.D. Cal. 2012). The ultimate inquiry is what amount is in
15 controversy, not what a defendant will actually owe. *Korn v. Polo Ralph Lauren*
16 *Corp.*, 536 F.Supp.2d 1199, 1205 (E.D. Cal. 2008). A defendant's notice of removal
17 need include only a plausible allegation that the amount in controversy exceeds the
18 jurisdictional threshold. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574
19 U.S. 81, 89 (2014).
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22 9. Plaintiff alleges harm arising from the alleged use of a trap and trace
23 process on Frontier's website, requesting injunctive relief from Defendant's use of
24 trap and trace processes, disgorgement of the data they argue has been provided to
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1 TikTok, statutory damages under the CIPA, and punitive damages. These damages
2 reasonably could exceed the \$75,000.00 threshold.
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4 10. Plaintiff alleges that Defendant violated CIPA, and as such they are
5 entitled to statutory damages. Such damages are determined by the greater of
6 \$5,000 per violation or three times the amount of actual damages. A separate
7 violation of CIPA occurs every time a Plaintiff's privacy has been violated. *See*
8 *Lieberman v. KCOP Television, Inc.*, 110 Cal. App. 4th 156, 167 (2nd Dist. Ct. App.
9 Jul. 3, 2003). Therefore, based on statutory damages alone, multiple violations
10 alleged would satisfy the amount in controversy.
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14 11. Punitive damages too are sought by Plaintiff in relation to the alleged
15 violations of the CIPA. Courts balance a variety of factors when considering the
16 proper amount of punitive damages, in part considering the "wealth" of the
17 defendant. Here, Defendant is an air carrier that flies to hundreds of destinations in
18 the United States and internationally, and the statutory amount of \$75,000 is likely
19 not to be considered an economic hardship. Further, California courts have awarded
20 punitive damages in CIPA/Invasion of Privacy claims that easily exceed the amount
21 in controversy requirement. *See Doe v. Lee*, 79 Cal. App. 5th 612 (3rd Dist. Ct.
22 App. May 13, 2022) (Court awarded punitive damages exceeding \$230,000 for
23 invasion of privacy). Therefore, under punitive damages as well, Plaintiff's claim
24 likely exceeds the statutory requirement for diversity.
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1 commence until Defendant was served with the Complaint. *See Murphy Bros., Inc.*
2 *v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354-56 (1999); 28 U.S.C. §
3 1441(b)(3).
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5 VI. VENUE AND INTRADISTRICT ASSIGNMENT

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7 15. The United States District Court of the Central District of California
8 is the federal court embracing the Superior Court of California, County of Los
9 Angeles, which is the place where the original action was filed. Thus, Frontier
10 properly seeks to remove this action to this Court. See 28 U.S.C. § 1441(a).
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12 VII. RESERVATION OF RIGHTS AND DEFENSES

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14 16. Defendant expressly reserves all of its defenses and rights, and none of
15 the foregoing shall be construed in any way as conceding the truth of any of
16 Plaintiff's allegations or waiving any of Defendant's defenses.
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18 DATED: February 18, 2025

FITZPATRICK, HUNT & PAGANO, LLP

19
20 By: Doug Griffith

Doug Griffith

Brian Maye

21 Attorneys for Defendant,
22 Frontier Airlines, Inc.
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CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing document has been electronically filed and sent to Plaintiff through Clerk of the U.S. District Court for the Central District of California by using the CM/ECF system on this 18th day of February, 2025. A copy was also sent to Plaintiff's counsel at the following address:

Wendy Miele (SBN 165551)
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By: *Doug Griffith*